

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/772,274 01/29/01 BANAS

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EXAMINER

NGUYEN, P

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2632

DATE MAILED:

06/27/01

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

|                              |                 |                   |
|------------------------------|-----------------|-------------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s)      |
|                              | 09/772,274      | BANAS, PATRICK A. |
|                              | Examiner        | Art Unit          |
|                              | Phung T Nguyen  | 2632              |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 January 2001.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- 15) Notice of References Cited (PTO-892)
- 16) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 19) Notice of Informal Patent Application (PTO-152)
- 20) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 10-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 10-14, it is suggested to change “the method” to --the system--.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gehlot [U.S. Pat. 6,060,989] in view of Kawakami et al. [U.S. Pat. 5,488,353]

**Regarding claim 1:** Gehlot discloses a system and method for preventing automobile accidents comprising a plurality of sensors 40-52 to alert the driver by modifying the air in a vehicle cab in the form of opening one or more windows of the vehicle (figures 1 and 2, col. 3, table 1, and col. 5, lines 11-19). Gehlot does not disclose monitoring a level of drowsiness as claimed. However, Kawakami et al. disclose an apparatus and method for improving the awareness of vehicle drivers comprising the tactile warning 26, visual warning 28, auditory warning 29 to determine different level of awareness of the driver (figure 1, col. 21, lines 59-67,

and col. 22, lines 1-16). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teaching of Kawakami et al. into the system of Gehlot in order to improve the awareness of the driver.

**Regarding claims 6 and 7:** Gehlot discloses the vehicle window is opened when driver awareness is low (figure 2, col. 5, lines 6-14).

4. Claims 2, 3, 8-10, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gehlot in view of Kawakami et al. and further in view of Turner et al. [U.S. Pat. 5,518,176]

**Regarding claims 2 and 3:** The combination fails to show alerting the driver includes lowering a temperature in an interior space of a vehicle. However, Turner et al. disclose an automotive climate control with infra-red sensing which comprises the IR sensor to turn on the ventilation (figure 1, col. 2, lines 65-67, col. 3, lines 1-4 and lines 56-60) whereby to lower a temperature in the passenger compartment. Therefore, it would have been obvious to one of ordinary skill in the art to implement the technique of Turner et al. in the system of the combination for lowering a temperature in the interior space of a vehicle if desired.

**Regarding claim 8:** All the claimed subject matter is already discussed in respect to claims 1-3 above.

**Regarding claims 9 and 10:** Refer to claims 2 and 3 above.

**Regarding claims 13 and 14:** Refer to claims 6 and 7 above.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gehlot in view of Kawakami et al. and further in view of Brownlee [U.S. Pat. 5,910,773]

**Regarding claim 4:** The combination does not disclose alerting the driver includes pumping an amount of oxygen into an interior space of a vehicle. However, Brownlee discloses

an oxygen supply system for wheeled vehicles comprising the system 20 (figure 1, col. 3, lines 9-51) to alert the driver by pumping the amount of oxygen into the interior space of a vehicle. Therefore, it would have been obvious to the skilled artisan to use the oxygen generating system 20 of Brownlee in the device of Gehlot and Kawakami et al. because improving the percentage of oxygen in the interior space of a vehicle would alert the drowsy driver which is an advantage.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gehlot in view of Kawakami et al. and further in view of Hayes et al. [U.S. Pat. 6,072,398]

**Regarding claim 5:** Gehlot discloses the step of alerting the driver includes opening one or more windows of the vehicle (col. 5, lines 11-14). But the combination fails to disclose the step of alerting the driver includes adjusting a degree of opening of a vehicle aperture. However, adjusting a degree of opening of a vehicle aperture base on the condition of the sensor is known in the art as taught by Hayes et al. (col. 3, lines 6-21). Therefore, it would have been obvious to the skilled artisan to combine the teaching of Hayes et al. with the teaching of the combination in order to prevent the vehicle operator from suddenly exposure to the weather conditions, which may cause an undesirable reaction of the driver.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gehlot in view of Kawakami et al. further in view of Turner et al. and Brownlee [U.S. Pat. 5,910,773]

**Regarding claim 11:** The combination does not disclose alerting the driver includes pumping an amount of oxygen into an interior space of a vehicle. However, Brownlee discloses an oxygen supply system for wheeled vehicles comprising the system 20 (figure 1, col. 3, lines 9-51) to alert the driver by pumping the amount of oxygen into the interior space of a vehicle. Therefore, it would have been obvious to the skilled artisan to use the oxygen generating system

20 of Brownlee in the device of the combination because improving the percentage of oxygen in the interior space of a vehicle would alert the drowsy driver which is an advantage.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gehlot in view of Kawakami et al. further in view of Turner et al. and Hayes et al. [U.S. Pat. 6,072,398]

**Regarding claim 12:** Gehlot discloses the step of alerting the driver includes opening one or more windows of the vehicle (col. 5, lines 11-14). But the combination fails to disclose the step of alerting the driver includes adjusting a degree of opening of a vehicle aperture. However, adjusting a degree of opening of a vehicle aperture base on the condition of the sensor is known in the art as taught by Hayes et al. (col. 3, lines 6-21). Therefore, it would have been obvious to the skilled artisan to combine the teaching of Hayes et al. with the teaching of the combination in order to prevent the vehicle operator from suddenly exposure to the weather conditions, which may cause an undesirable reaction of the driver.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Brownlee [U.S. Pat. 6,034,606] discloses an oxygen enrichment system for wheeled vehicles cross-reference to related applications.
- b. Brownlee [U.S. Pat. 6,191,694] discloses an oxygen enrichment system for vehicles.
- c. Gwin et al. [U.S. Pat. 5,585,785] discloses a driver alarm.
- d. Clarke, Sr. et al. [U.S. Pat. 5,689,241] disclose a sleep detector and driver alert apparatus.

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e. Griesinger et al. [U.S. Pat. 6,097,295] disclose an apparatus for determining the alertness of a driver.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung T Nguyen whose telephone number is 703-308-6252. The examiner can normally be reached on 8:00am-5:30pm Mon thru. Friday, with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery A Hofsass can be reached on 703-305-4717. The fax numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Examiner: Phung Nguyen

Date: June 22, 2001

  
DANIEL J. WU  
Primary Examiner  
6/25/01